

### **REMARKS**

This responds to the Final Office Action mailed on August 6, 2008.

Claims 1, 8, and 15 are amended; claim 20 was previously canceled, without prejudice to the Applicant; claims 21-25 are presently cancelled, without prejudice to the Applicant; as a result claims 1-19 are now pending in this application.

Applicant contends that the claim amendments are made for purposes of placing the present application in condition for allowance and further does not believe that the amendments necessitate any new searching on the part of the Examiner. Therefore, Applicant believes that entry of the amendments is appropriate.

Also, support for the amendments may be found in a variety of locations throughout the original filed specification. By way of example only the Examiner's attention is directed to the original filed specification page 11 lines 27-29.

### **§103 Rejection of the Claims**

Claims 1-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cain (U.S. 6,857,026) in view of Ash et al. (U.S. 6,590,867). To sustain an obviousness rejection each and every limitation in the rejected claims must be taught or suggested in the proposed combination of references.

Here, the Examiner relies on Ash for teaching the policy evaluation at the intermediate nodes along the path. In support of this, the Examiner has recited Ash column 5 lines 41-55. In this particular reference, a Type of Service (TOS) field indicator included with a packet being processed is inspected. The TOS indicator is nothing more than a Quality of Service (QOS) flag, used by Ash to determine queue priority for the packet as assigned by the originating node. This is not the policies and policy metrics that Applicant has taught.

Applicant has amended the pending independent claims to further clarify the policies to clearly distinguish over what it is alleged that Ash has taught with respect to node policy enforcement. Specifically, Ash uses a flag to identify a type of quality of service that is to be processed for a packet. Ash does not include policies that are executable statements

As such, the rejections of record should be withdrawn and the claims allowed. Applicant respectfully requests an indication of the same.

*Reservation of Rights*

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (513) 942-0224 to facilitate prosecution of this application.

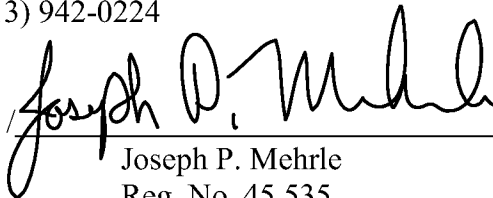
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(513) 942-0224

Date 10-06-08

By /



Joseph P. Mehrle  
Reg. No. 45,535